THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 32105 of 1998

Dated:12-08-2005

Between:

S. Satyanarayana, S/o Yadaiah,
R/o Ramnagar, Hyderabad.

..... PETITIONER

AND

1 Presiding Officer, Addl. Industrial Tribunal-cum-Addl. Labour Court, Hyderabad.
2 The Depot Manager, A.P.S.R.T.C., Kukatpally, Hyderabad.

RESPONDENTS

THE HONOURABLE SRI JUSTICE C.V.RAMULU

W.P.NO. 32105 OF 1998

ORDER:

This writ petition is filed by the workman being aggrieved by the Award made in I.D.No.85 of 1994 dated 16-8-1995 on the file of the Additional Industrial Tribunal -cum- Additional Labour Court, at Hyderabad, wherein the petition filed under Section 2 A (2) of the Industrial Disputes Act (in short 'the Act') by the workman was rejected without granting any relief.

It is the case of the petitioner that he was appointed as driver in Andhra Pradesh State Road Transport Corporation with effect from 15-8-1986. According to him, there are no remarks against him from any quarter. He had fairly good track record of service. While so, from 16-4-1990 to 15-6-1990, the petitioner under went treatment in A.P.S.R.T.C hospital, Hyderabad, for which he has produced sick certificate. According to the workman, he did not absent from the duties, he intimated the same to the authorities and he also produced sick certificate from the competent

authority. However, the respondent issued a charge sheet alleging that the petitioner absented from the duties from 16-4-1990 without any sanction of leave or without prior permission. After conducting a detailed enquiry into the matter, the workman was removed from the service on 11-9-1990. Aggrieved by the same, he filed appeal and the same was rejected on 15-11-1991. Having no other option, the workman raised the dispute under Section 2 A (2) of the Act which was taken up on file as I.D.No.85/94 on the file of the Additional Industrial Tribunal -cum- Additional Labour Court, Hyderabad. According to the workman, the Labour Court has not appreciated the facts of the case and simply rejected the claim of the workman holding, any sympathy shown towards the workman would only encourage the other drivers to abscond from duty for 3 to 4 years, earn money in Gulf countries or other places, come back and claim their job again, as if, the Corporation is choultry, ready to receive them at any time.

Though, no counter filed, the learned counsel for the respondent strenuously contended that the petitioner absented for duties without there being any reason to do so. Therefore, the same amounts to gross misconduct which was proved in full. Thus, the Labour Court has rightly held that the workman is not entitled for any relief.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and also perused the Award passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, and other material made available on record.

At the out-set, I am of the opinion that the Labour Court did not commit any error in coming to the conclusion that the domestic enquiry conducted by the respondent-management was valid and is also further holding that the workman is guilty of charges for the misconduct committed by him. However, I am of the opinion that the Labour Court has not properly appreciated as to the proportionality of the punishment. Admittedly, the petitioner was appointed as Driver on 15-8-1986 and this is a case of unauthorized absence from 16-4-1990 to 15-6-1990 for which the petitioner has submitted sick certificate issued by the A.P.S.R.T.C. Hospital, Tarnaka. However, he pleaded that he had taken treatment from Osmania General Hospital also but he did not produce any certificate. Therefore, the Labour Court came to the conclusion that the workman absented himself unauthorisedly and till the date of charge sheet i.e. 6-7.1990, no evidence was produced . Therefore, the Labour Court came to the conclusion that the petitioner absented himself without

any leave or without prior permission. Such a finding cannot be said to be arbitrary or illegal but none-the-less, this being the first misconduct on the part of the workman and it is only as to unauthorized absence particularly when he has produced a valid sick certificate issued by the A.P.S.R.T.C Hospital, Tarnaka, covering for the period from 16-4-1990 to 15-5-1990, the removal of the workman from the service of the Corporation is disproportionate to that of misconduct proved. Therefore, the Award passed by the Labour Court is liable to be modified and accordingly it is modified.

In the result, the respondents are directed to reinstate the petitioner-workman as fresh driver and put him on the time scale which is applicable to the post of driver as of now and he shall be reinstated within a period of one month from the date of receipt of this order.

The writ petition is, accordingly, allowed to the extent indicated above. No order as to costs.

_____

C.V.RAMULU,J

12-08-2005

Stp